

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER, LLP  
*Attorneys for Defendants*  
Adeptus Partners, LLC  
Lewis Stark  
1133 Westchester Avenue  
White Plains, NY 10604  
(914) 323-7847

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Index No.: 654079/2024

SIRIUS XM RADIO INC.,

Plaintiff,

**NOTICE OF REMOVAL**

- against -

ADEPTUS PARTNERS, LLC and LEWIS STARK,

Defendants.

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**TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Defendants, Adeptus Partners, LLC and Lewis Stark, by and through their attorneys, WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, as and for their notice of removal of this action pursuant to 28 USC §§1441(c) and 1446, petitions the Court and respectfully set forth as follows:

1. The Plaintiff, Sirius XM Radio Inc., (“Plaintiff”), filed a Summons and Complaint in New York County Supreme Court of the State of New York (the “State Court”), dated August 12, 2024, commencing this action captioned as Sirius XM Radio Inc., v. Adeptus Partners, LLC; Lewis Stark (the “Subject Action”). A true copy of the

Summons and Complaint with Exhibits filed in the Subject Action are attached hereto as Exhibit A.

2. Defendants Adeptus Partners, LLC and Lewis Stark were served with the Summons and Complaint, Notice of Electronic Filing and Request for Judicial Intervention on August 14, 2024.

3. The Subject Action alleges breach of contract, breach of covenant of good faith and fair dealing and negligence all premised on a violation of Section 106 of the Copyright Act, 17 U.S.C. § 106 (6). *See* Complaint ¶16, Exhibit A.

4. The Subject Action further alleges violations under 37 C.F.R § 382.1 and 37 C.F.R § 382.7 which claims that the Defendants were not qualified auditors as defined in the Code of Federal Regulations. *See* Complaint ¶ 49, Exhibit A.

5. Pursuant to 28 U.S.C. § 1331, the U.S. District Courts have original jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 1331.

6. Removal of such cases is governed by 28 U.S.C. § 1441(a) which makes clear that “[e]xcept as expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.” *See* 28 U.S.C. § 1441(a).

7. Pursuant to 28 U.S.C. § 1331, the Defendants are entitled to remove the action to this Court as the subject and claims contained in the action stem from alleged violations under 17 U.S.C. § 106, 37 C.F.R § 382.1 and 37 C.F.R § 382.7.

8. This removal is timely as required by 28 U.S.C. § 1446(b)(1) as it is being filed within thirty (30) days after the Defendants' receipt of service of the Summons and Complaint.

9. Written filing of this Notice of Removal will be given to the plaintiff promptly after the filing of the Notice of Removal, as is required by law.

10. A true and correct copy of this Notice of Removal will be filed with the Clerk of the Supreme Court of the State of New York, County of New York as soon as possible after the filing of the Notice of Removal, as is required by law.

11. By filing this Notice of Removal, petitioner does not waive any defense which may be available to it, specifically including, but not limited to, the right to contest *in personam* jurisdiction over the petitioner, improper service of process upon the petitioner, and the absence of venue in this Court or in the court from which the Action has been removed.

12. All fees required by law in connection with this notice have been filed.

**WHEREFORE**, the Defendants respectfully prays that this action now pending in the Supreme Court of the State of New York, County of New York proceed in the United States District Court for the Southern District of New York as an action properly removed thereto, together with such other and further relief as this Court may deem just, proper, and equitable.

Dated: White Plains, New York  
September 13, 2024

Yours, etc.,

WILSON ELSEER MOSKOWITZ EDELMAN & DICKER, LLP

By: /s/ Peter J. Larkin  
Peter J. Larkin  
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TO:

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing Notice of Removal with Exhibits was emailed to counsel for Plaintiff as follows:

Todd Larson, Esq.  
[Todd.larson@weil.com](mailto:Todd.larson@weil.com)  
Weil Gotshal & Manges LLP  
767 Fifth Avenue  
New York, New York 10153  
Attorney for Plaintiff

This the 13<sup>th</sup> day of September, 2024.

/s/ Peter J. Larkin  
Peter J. Larkin